GOVERNMENT OF INDIA
COMMUNICATIONS AND INFORMATION TECHNOLOGY
LOK SABHA

STARRED QUESTION NO:25
ANSWERED ON:02.03.2005
FOREIGN DIRECT INVESTMENT IN TELECOM SECTOR
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Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether the Government has decided to enhance the Foreign Direct Investment (FDI) in Telecom Sector;

(b) if so, the details thereof;

(c) the number of foreign investors who have come forward to invest in telecom sector;

(d) the extent to which the proposed FDI is likely to improve the Telecom Sector?

(e) the steps taken by the government to protect the security of the nation while enhancing the FDI in such a strategic area?

Answer

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI DAYANIDHI MARAN)

(a) to (e): A statement is laid on the Table of the House.

STATEMENT TO BE LAID ON THE TABLE OF THE LOK SABHA IN RESPECT OF PARTS (a) TO (e) OF LOK SABHA STARRED QUESTION NO. 25 FOR 2ND MARCH, 2005 REGARDING FOREIGN DIRECT INVESTMENT IN TELECOM SECTOR.

(a) Yes, Sir.

(b) Salient features of the decision are placed at Annexure.

(c) & (d) No fresh proposal has been received by the government after the announcement of enhancing FDI limits in telecom sector.

(e) While enhancing the FDI ceiling, certain conditions have been put in place to safeguard the national interest. The salient conditions are given in the Annexure.

Annexure

INCREASE IN FDI CEILING TO 74 PERCENT IN TELECOM SECTOR

The Union Cabinet on 02.02.2005 approved a proposal to enhance composite foreign holding in Telecom sector to 74 percent. With this decision, the current FDI ceiling in the Telecom Sector in certain services (such as Basic, Cellular, Unified Access Services, National/International Long Distance, V-SAT, Public Mobile Radio Trunked Service (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added services, has been increased from 49 percent to 74 percent.

The total composite foreign holding including but not limited to investments by foreign Institutional Investors (FIIs), Non-Resident Indians (NRIs), Foreign currency Convertible Bonds (FCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs), convertible preference shares, proportionate foreign investment in Indian promoters/investment companies including their holding companies etc., will not exceed 74 percent. Thus, 74 percent foreign investment can be made directly or indirectly in the operating company or through a holding company. Hence, the remaining 26 percent will be owned by resident Indian citizens or an Indian Company (i.e. foreign direct investment does not exceed 49 percent and the management is with the Indian owners). It is clarified that proportionate foreign component of such an Indian company will also be counted towards the ceiling of 74%. The licensee will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 74% on a half yearly basis.

While enhancing the FDI ceiling, certain conditions have been put in place to safeguard the national interest. The salient conditions are:-

(a) The majority Directors on the Board including Chairman, Managing director and CEO shall be resident Indian citizens. The share Holder Agreements (SHA) shall specifically incorporate this condition and also envisage the conditions of adherence to Licence Agreement.

(b) In order to ensure that at least one serious resident Indian promoter subscribers reasonable amount of the resident Indian

shareholding, such resident Indian promoter shall hold at least 10 percent equity of the licensee company.

(c) Chief Technical Officer(CTO)/Chief Finance Officer (CFO) should be resident Indian citizens. The Licensor/DOT shall also be empowered to notify any key positions to be held by resident Indian citizens.

(d) No traffic (mobile and landline) from subscribers within India to subscribers within India shall be hauled to any place outside India.

(e) The Company shall not transfer the following to any person/place outside India:

(i) any accounting information relating to subscriber (except for roaming/billing) (note: it does not restrict a statutorily required disclosure of financial nature);

(ii) user information (except pertaining to foreign subscribers using Indian Operator`s network while roaming); and

(iii) details of their infrastructure/network diagram except to telecom equipment suppliers/manufactures who undertake the installation, commissioning etc. of the infrastructure of the licensee company on signing of non-disclosure agreement.

These conditions shall also be made applicable to the companies operating telecom service(s) with existing FDI ceiling of 49 percent. With the above dispensation, the present provisions in FDI policy for investment company will no longer be applicable for Telecom sector as indirect foreign investment in the licensee company will also be counted towards sectoral cap of 74 percent.

In case of not adhering to licence conditions now being imposed for addressing security concerns, the licence(s) granted to the company shall be deemed as cancelled and the licensor shall have the right to encash the performance bank guarantees and the licensor shall not be liable for loss of any kind.